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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,697	03/19/2004	Brian M. Ray	RAY-30133	9154

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EXAMINER	
ESTRADA, ANGEL R	
ART UNIT	**PAPER NUMBER**
2831	

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/804,697	RAY, BRIAN M.	
	Examiner	Art Unit	
	Angel R. Estrada	2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,8-17,19 and 20* is/are rejected.

7)☒ Claim(s) *7 and 18* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *3/19/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The Information Disclosure Statement filed on March 19, 2004 has been considered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6, 8-11, 13-17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clough (US 6,310,291).

Regarding claim 1, Clough discloses a cover plate (see figure 19) for a switch comprising: a first plate member (410) having a forward surface; a second plate member (420) having a thickness coupled to the first plate member (410) and overlaying the forward surface of the first plate member (see figure 19), the second plate member (420) having a different configuration from that of the first plate member (410) so that at least a portion of the forward surface of the first plate member (410) is exposed, the second plate (420) being visually distinct from the first plate member (410); and wherein at least one of the first and second plate members (410, 420) has an opening (412,424) to facilitate access of the device of the wall when the cover plate is

mounted thereto (see figure 19); but Clough lacks the second plate member having a thickness of 1/32 of an inch or more. It would have been an obvious matter of design choice to make the second plate member with a thickness of 1/32 of an inch or more, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re. Rose, 105 USPQ 237 (CCPA 1955). Furthermore, it would have been an obvious matter of design choice to make the second plate member with a thickness of 1/32 of an inch or more, since applicant has not disclosed that a second plate member with a thickness of 1/32 of an inch or more solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with thickness of Clough.

Regarding claim 2, Clough discloses the cover plate (see figure 19), wherein: the first (410) and second plate (420) members each have a forward surface that is different from the other (see figure 19) to provide a visually perceptible contrast between the first and second plate members (see figure 19).

Regarding claim 3, Clough discloses the cover plate (see figure 19), wherein: the first (410) and second plate (420) members each have a forward surface that is provided with a different surface finish from the other (see figure 19) to provide a visual perceptible contrast between the first and second plate members (see figure 19).

Regarding claim 4, the modified Clough discloses the cover plate (see figure 19), wherein the second plate member (420) has a thickness of from 1/16 of an inch or more (see figure 19).

Regarding claim 5, Clough discloses the cover plate (see figure 19), wherein the different configuration of the second plate member (420) is provided at least one of a cutout or aperture (see figure 19 or 426) formed through the thickness of the second plate member (see figure 19).

Regarding claim 6, Clough discloses the cover plate (see figure 19), wherein: the plate members (410, 420) are formed of a metal or metal alloy (column 24 lines 53-56).

Regarding claim 8, Clough discloses the cover plate (see figure 19), wherein: the first and second plate members (410, 420) are formed from at least one of copper, steel, carbon steel, aluminum, bronze, nickel, tin, iron, brass, and alloys of such materials, wood, polymeric materials, leather, fabric, composite materials, clays, ceramics and glass (column 24 lines 53-56).

Regarding claim 9, Clough discloses the cover plate (see figure 19), wherein: each of the first and second plate members (410,420) is opaque (column 24 lines 23-56, depends on the material used to made the plates).

Regarding claim 10, Clough discloses the cover plate (see figure 19), wherein: one of the plate members (410, 420) has a matte forward surface and the other plate member has a non-matte forward surface (column 24 lines 53-56, depends on the material used to make the plates).

Regarding claim 11, Clough discloses the cover plate (see figure 19), wherein: the first and second plate members (410,420) each have sufficient thickness to provide a visually perceptible layered appearance (see figure 19).

Regarding claim 13, Clough discloses a cover plate (see figure 19) for a switch comprising: a first plate member (410) having a forward surface; a second plate member (420) having a thickness coupled to the first plate member (410) and overlaying the forward surface of the first plate member (410, see figure 19), the second plate member (420) having a different configuration from that of the first plate member (410, see figure 19) so that at least a portion of the forward surface of the first plate member (410) is exposed, the second plate member (420) having a sufficient thickness to provide a readily perceptible side edge and being visually distinct from the first plate member (410, see figure 19); and wherein at least one of the first and second plate members (410, 420) has an opening (412, 424) to facilitate access of the switch (413) when the cover plate is mounted thereto (see figure 19); but Clough lacks the second plate member having a thickness of 1/32 of an inch or more. It would have been an obvious matter of design choice to make the second plate member with a thickness of 1/32 of an inch or more, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re. Rose, 105 USPQ 237 (CCPA 1955). Furthermore, it would have been an obvious matter of design choice to make the second plate member with a thickness of 1/32 of an inch or more, since applicant has not disclosed that a second plate member with a thickness of 1/32 of an inch or more solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with thickness of Clough.

Regarding claim 14, Clough discloses the cover plate (see figure 19), wherein: the first (410) and second plate (420) members each have a forward surface that is different from the other (see figure 19) to provide a visually perceptible contrast between the first and second plate members (see figure 19).

Regarding claim 15, Clough discloses the cover plate (see figure 19), wherein: the first (410) and second plate (420) members each have a forward surface that is provided with a different surface finish from the other (see figure 19) to provide a visual perceptible contrast between the first and second plate members (see figure 19).

Regarding claim 16, the modified Clough discloses the cover plate (see figure 19), wherein the second plate member (420) has a thickness of from 1/16 of an inch or more (see figure 19).

Regarding claim 17, Clough discloses the cover plate (see figure 19), wherein the different configuration of the second plate member (420) is provided at least one of a cutout or aperture (see figure 19 or 426) formed through the thickness of the second plate member (see figure 19).

Regarding claim 19, Clough discloses the cover plate (see figure 19), wherein: one of the plate members (410, 420) has a matte forward surface and the other plate member has a non-matte forward surface (column 24 lines 53-56, depends on the material used to make the plates).

Regarding claim 20, Clough discloses a cover plate (see figure 19) for a switch (413) comprising: a first plate member (410) having a forward surface; a second plate member (420) coupled to the first plate member (410) and overlaying the forward

surface of the first plate member (410), the second plate member (420) having a different configuration from that of the first plate member (410, see figure 19) so that at least a portion of the forward surface of the first plate member is exposed (see figure 19), the first and second plate members (410,420) each have a forward surface that is provided with a different surface finish from the other to provide a visual perceptible surface contrast between the first and second plate members (see figure 19), and the second plate member (420) having a thickness to provide a readily perceptible side edge and being visually distinct from the first plate member (see figure 19); and wherein at least one of the first and second plate members (410, 420) has an opening (412,424) to facilitate access of the switch (413) when the cover plate is mounted thereto (see figure 19); but Clough lacks the second plate member having a thickness of 1/32 of an inch or more. It would have been an obvious matter of design choice to make the second plate member with a thickness of 1/32 of an inch or more, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re. Rose, 105 USPQ 237 (CCPA 1955). Furthermore, it would have been an obvious matter of design choice to make the second plate member with a thickness of 1/32 of an inch or more, since applicant has not disclosed that a second plate member with a thickness of 1/32 of an inch or more solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with thickness of Clough.

3. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clough (US 6,310,291) in view of Shotey et al (US 5,965,846, hereinafter Shotey)

Regarding claim 12, Shotey discloses the claimed invention except for the first and second plate members being coupled together with a very high bond adhesive tape. Shotey teaches a plate member (11) being coupled to a second plate member (part of the electrical outlet, see figure 5) with a very high bond adhesive tape (51). It would have been obvious to one of ordinary skill in the art at the time the invention was made provide to Clough's cover plate with a very high bond adhesive tape to coupled together the first and second plate member as taught by Shotey to provide to alternative means for securing the two plate members together.

Allowable Subject Matter

4. Claims 7 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The primary reasons for the indication of the allowability of claims 7 and 18 are:

Regarding claim 7, the prior art does not teach or fairly suggest in combination with the other claimed limitations a cover plate comprising: a third plate member that overlays and is coupled to the first and second plate members, the third plate member having a configuration that is different from that of the first and second plate members so that at least a portion of the forward surface of each of the first and second plate

members is exposed, the third plate member being visibly distinct from the first and second plate members.

Regarding claim 18, the prior art does not teach or fairly suggest in combination with the other claimed limitations a cover plate comprising a third plate member that overlays the first and second plate members, the third plate member having a configuration that is different from that of the first and second plate members so that at least a portion of the forward surface of each of the first and second plate members is exposed, the third plate member having a sufficient thickness to provide a visually perceptible layered appearance.

These limitations are found in claims 7 and 18, and are neither disclosed nor taught by the prior art of record, alone or in combination.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Baldwin et al (US 6,281,440), Snyder (US 3,689,868), Sanguedolce (US 6,036,330), Mongean (US 4,914,265), Correnti (US 5,195,901), Boxer (US 4,7620,227), Sowdon (US 6,278,062) and Conner et al (US 5,577,602) disclose a cover plate for a wall-mounted device.

6. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

AE

September 27, 2004

Angel R. Estrada

Angel R. Estrada
Patent Examiner
Art Unit: 2831